

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

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| ROBERT DAVENPORT, | : | Case No. 1:16-cv-493 |
| | : | |
| Petitioner, | : | Judge Timothy S. Black |
| | : | Magistrate Judge Karen L. Litkovitz |
| vs. | : | |
| | : | |
| WARDEN, WARREN CORRECTIONAL | : | |
| INSTITUTION, | : | |
| | : | |
| Respondent. | : | |

**DECISION AND ENTRY
ADOPTING THE REPORT AND RECOMMENDATIONS
OF THE UNITED STATES MAGISTRATE JUDGE (Doc. 12)**

This case is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Karen L. Litkovitz. Pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court and, on November 29, 2016, submitted a Report and Recommendations. (Doc. 12). No objections were filed.

As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Report and Recommendations should be and is hereby adopted in its entirety.

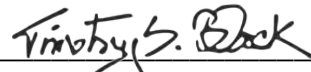
Accordingly:

1. Respondent's motion to dismiss (Doc. 9) is **GRANTED** and the Petition (Doc. 3) is **DISMISSED WITH PREJUDICE**;

2. A certificate of appealability shall not issue; and
3. An appeal of this Order would not be taken in good faith and therefore Petitioner is **DENIED** leave to appeal *in forma pauperis*.

IT IS SO ORDERED.

Date: 1/4/2017



Timothy S. Black
United States District Judge